

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
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CHAPTER 84

HOUSE BILL 2734

AN ACT

AMENDING SECTIONS 13-3821, 13-3822 AND 13-3827, ARIZONA REVISED STATUTES;
RELATING TO SEX OFFENDER REGISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3821, Arizona Revised Statutes, is amended to
3 read:

4 13-3821. Persons required to register; procedure;
5 identification card; definitions

6 A. A person who has been convicted of a violation or attempted
7 violation of any of the following offenses or who has been convicted of an
8 offense committed in another jurisdiction that if committed in this state
9 would be a violation or attempted violation of any of the following offenses
10 or an offense that was in effect before September 1, 1978 and that, if
11 committed on or after September 1, 1978, has the same elements of an offense
12 listed in this section or who is required to register by the convicting
13 jurisdiction, within ten days after the conviction or within ten days after
14 entering and remaining in any county of this state, shall register with the
15 sheriff of that county:

16 1. Unlawful imprisonment pursuant to section 13-1303 if the victim is
17 under eighteen years of age and the unlawful imprisonment was not committed
18 by the child's parent.

19 2. Kidnapping pursuant to section 13-1304 if the victim is under
20 eighteen years of age and the kidnapping was not committed by the child's
21 parent.

22 3. Sexual abuse pursuant to section 13-1404 if the victim is under
23 eighteen years of age.

24 4. Sexual conduct with a minor pursuant to section 13-1405.

25 5. Sexual assault pursuant to section 13-1406.

26 6. Sexual assault of a spouse if the offense was committed before
27 August 12, 2005.

28 7. Molestation of a child pursuant to section 13-1410.

29 8. Continuous sexual abuse of a child pursuant to section 13-1417.

30 9. Taking a child for the purpose of prostitution pursuant to section
31 13-3206.

32 10. Child prostitution pursuant to section 13-3212.

33 11. Commercial sexual exploitation of a minor pursuant to section
34 13-3552.

35 12. Sexual exploitation of a minor pursuant to section 13-3553.

36 13. Luring a minor for sexual exploitation pursuant to section 13-3554.

37 14. Sex trafficking of a minor pursuant to section 13-1307.

38 15. A second or subsequent violation of indecent exposure to a person
39 under fifteen years of age pursuant to section 13-1402.

40 16. A second or subsequent violation of public sexual indecency to a
41 minor under the age of fifteen years pursuant to section 13-1403,
42 subsection B.

43 17. A third or subsequent violation of indecent exposure pursuant to
44 section 13-1402.

1 18. A third or subsequent violation of public sexual indecency pursuant
2 to section 13-1403.

3 19. A violation of section 13-3822 or 13-3824.

4 B. Before the person is released from confinement the state department
5 of corrections in conjunction with the department of public safety and each
6 county sheriff shall complete the registration of any person who was
7 convicted of a violation of any offense listed under subsection A of this
8 section. Within three days after the person's release from confinement, the
9 state department of corrections shall forward the registered person's records
10 to the department of public safety and to the sheriff of the county in which
11 the registered person intends to reside. Registration pursuant to this
12 subsection shall be consistent with subsection E of this section.

13 C. Notwithstanding subsection A of this section, the judge who
14 sentences a defendant for any violation of chapter 14 or 35.1 of this title
15 or for an offense for which there was a finding of sexual motivation pursuant
16 to section 13-118 may require the person who committed the offense to
17 register pursuant to this section.

18 D. The court may require a person who has been adjudicated delinquent
19 for an act that would constitute an offense specified in subsection A or C of
20 this section to register pursuant to this section. Any duty to register
21 under this subsection shall terminate when the person reaches twenty-five
22 years of age.

23 E. A person who has been convicted of or adjudicated delinquent and
24 who is required to register in the convicting state for an act that would
25 constitute an offense specified in subsection A or C of this section and who
26 is not a resident of this state shall be required to register pursuant to
27 this section if the person is either:

28 1. Employed full-time or part-time in this state, with or without
29 compensation, for more than fourteen consecutive days or for an aggregate
30 period of more than thirty days in a calendar year.

31 2. Enrolled as a full-time or part-time student in any school in this
32 state for more than fourteen consecutive days or for an aggregate period of
33 more than thirty days in a calendar year. For the purposes of this
34 paragraph, "school" means an educational institution of any description,
35 public or private, wherever located in this state.

36 F. Any duty to register under subsection D or E of this section for a
37 juvenile adjudication terminates when the person reaches twenty-five years of
38 age.

39 G. The court may order the termination of any duty to register under
40 this section on successful completion of probation if the person was under
41 eighteen years of age when the offense for which the person was convicted was
42 committed.

43 H. At the time of registering, the person shall sign or affix an
44 electronic fingerprint to a statement giving such information as required by
45 the director of the department of public safety, including all names by which

1 the person is known, ANY REQUIRED ONLINE IDENTIFIER AND THE NAME OF ANY
2 WEBSITE OR INTERNET COMMUNICATION SERVICE WHERE THE IDENTIFIER IS BEING USED.
3 The sheriff shall fingerprint and photograph the person and within three days
4 thereafter shall send copies of the statement, fingerprints and photographs
5 to the department of public safety and the chief of police, if any, of the
6 place where the person resides. The information that is required by this
7 subsection shall include the physical location of the person's residence and
8 the person's address. If the person has a place of residence that is
9 different from the person's address, the person shall provide the person's
10 address, the physical location of the person's residence and the name of the
11 owner of the residence if the residence is privately owned and not offered
12 for rent or lease. If the person receives mail at a post office box, the
13 person shall provide the location and number of the post office box. If the
14 person does not have an address or a permanent place of residence, the person
15 shall provide a description and physical location of any temporary residence
16 and shall register as a transient not less than every ninety days with the
17 sheriff in whose jurisdiction the transient is physically present.

18 I. On the person's initial registration and every year after the
19 person's initial registration, the person shall CONFIRM ANY REQUIRED ONLINE
20 IDENTIFIER AND THE NAME OF ANY WEBSITE OR INTERNET COMMUNICATION SERVICE
21 WHERE THE IDENTIFIER IS BEING USED. THE PERSON SHALL obtain a new
22 nonoperating identification license or a driver license from the motor
23 vehicle division in the department of transportation and shall carry a valid
24 nonoperating identification license or a driver license. Notwithstanding
25 sections 28-3165 and 28-3171, the license is valid for one year from the date
26 of issuance, and the person shall submit to the department of transportation
27 proof of the person's address and place of residence. The motor vehicle
28 division shall annually update the person's address and photograph and shall
29 make a copy of the photograph available to the department of public safety or
30 to any law enforcement agency. The motor vehicle division shall provide to
31 the department of public safety daily address updates for persons required to
32 register pursuant to this section.

33 J. Except as provided in subsection E or K of this section, the clerk
34 of the superior court in the county in which a person has been convicted of a
35 violation of any offense listed under subsection A of this section or has
36 been ordered to register pursuant to subsection C or D of this section shall
37 notify the sheriff in that county of the conviction within ten days after
38 entry of the judgment.

39 K. Within ten days after entry of judgment, a court not of record
40 shall notify the arresting law enforcement agency of an offender's conviction
41 of a violation of section 13-1402. Within ten days after receiving this
42 information, the law enforcement agency shall determine if the offender is
43 required to register pursuant to this section. If the law enforcement agency
44 determines that the offender is required to register, the law enforcement
45 agency shall provide the information required by section 13-3825 to the

1 department of public safety and shall make community notification as required
2 by law.

3 L. A person who is required to register pursuant to this section
4 because of a conviction for the unlawful imprisonment of a minor or the
5 kidnapping of a minor is required to register, absent additional or
6 subsequent convictions, for a period of ten years from the date that the
7 person is released from prison, jail, probation, community supervision or
8 parole and the person has fulfilled all restitution obligations.
9 Notwithstanding this subsection, a person who has a prior conviction for an
10 offense for which registration is required pursuant to this section is
11 required to register for life.

12 M. A person who is required to register pursuant to this section and
13 who is a student at a public or private institution of postsecondary
14 education or who is employed, with or without compensation, at a public or
15 private institution of postsecondary education or who carries on a vocation
16 at a public or private institution of postsecondary education shall notify
17 the county sheriff having jurisdiction of the institution of postsecondary
18 education. The person required to register pursuant to this section shall
19 also notify the sheriff of each change in enrollment or employment status at
20 the institution.

21 N. At the time of registering, the sheriff shall secure a sufficient
22 sample of blood or other bodily substances for deoxyribonucleic acid testing
23 and extraction from a person who has been convicted of an offense committed
24 in another jurisdiction that if committed in this state would be a violation
25 or attempted violation of any of the offenses listed in subsection A of this
26 section or an offense that was in effect before September 1, 1978 and that,
27 if committed on or after September 1, 1978, has the same elements of an
28 offense listed in subsection A of this section or who is required to register
29 by the convicting jurisdiction. The sheriff shall transmit the sample to the
30 department of public safety.

31 O. ANY PERSON REQUIRED TO REGISTER UNDER SUBSECTION A OF THIS SECTION
32 SHALL REGISTER THEIR REQUIRED ONLINE IDENTIFIER AND THE NAME OF ANY WEBSITE
33 OR INTERNET COMMUNICATION SERVICE WHERE THE IDENTIFIER IS BEING USED OR
34 INTENDS TO USE THE IDENTIFIER WITH THE SHERIFF FROM AND AFTER DECEMBER 31,
35 2007, REGARDLESS OF WHETHER THE PERSON WAS REQUIRED TO REGISTER AN IDENTIFIER
36 AT THE TIME OF THEIR INITIAL REGISTRATION UNDER THIS SECTION.

37 ~~0~~ P. For the purposes of this section:

38 1. "Address" means the location at which the person receives mail.

39 2. "REQUIRED ONLINE IDENTIFIER" MEANS ANY ELECTRONIC EMAIL ADDRESS
40 INFORMATION OR INSTANT MESSAGE, CHAT, SOCIAL NETWORKING OR OTHER SIMILAR
41 INTERNET COMMUNICATION NAME, BUT DOES NOT INCLUDE SOCIAL SECURITY NUMBER,
42 DATE OF BIRTH, OR PIN NUMBER.

43 ~~2~~ 3. "Residence" means the person's dwelling place, whether
44 permanent or temporary.

1 Sec. 2. Section 13-3822, Arizona Revised Statutes, is amended to read:
2 13-3822. Notice of moving from place of residence or change of
3 name or electronic information; forwarding of
4 information; definitions

5 A. Within seventy-two hours, excluding weekends and legal holidays,
6 after moving from the person's residence within a county or after changing
7 the person's name, a person who is required to register under this article
8 shall inform the sheriff in person and in writing of the person's new
9 residence, address or new name. If the person moves to a location that is
10 not a residence and the person receives mail anywhere, including a post
11 office box, the person shall notify the sheriff of the person's address. If
12 the person does not have an address or a permanent place of residence, the
13 person shall register as a transient not less than every ninety days with the
14 sheriff in whose jurisdiction the transient is physically present. Within
15 three days after receipt of such information, the sheriff shall forward it to
16 the department of public safety and the chief of police, if any, of the place
17 from which the person moves, and shall forward a copy of the statement,
18 fingerprints and photograph of the person to the chief of police, if any, of
19 the place to which the person has moved.

20 B. Within seventy-two hours after a person moves from a county in
21 which the person is registered, the person shall notify in writing the
22 sheriff of the county from which the person moves. If the person is subject
23 to community notification requirements, the sheriff of the county from which
24 the person moves shall advise the local law enforcement agency of the county
25 to which the person moves of the move. If the person moves out of this
26 state, the sheriff of the county from which the person moves shall advise the
27 local law enforcement agency in the jurisdiction to which the person moves.
28 The local law enforcement agency shall contact the department of public
29 safety following ten days after being notified to determine if the person has
30 reregistered. If the person has not reregistered, the local law enforcement
31 agency shall notify the local law enforcement agency in the county in which
32 the person last resided. Any law enforcement agency in the county in which
33 the person last resided shall conduct an investigation and shall submit a
34 report to the appropriate county attorney.

35 C. A PERSON WHO IS REQUIRED TO REGISTER PURSUANT TO THIS ARTICLE SHALL
36 NOTIFY THE SHERIFF EITHER IN PERSON OR ELECTRONICALLY WITHIN SEVENTY-TWO
37 HOURS, EXCLUDING WEEKENDS AND LEGAL HOLIDAYS, AFTER A PERSON MAKES ANY CHANGE
38 TO ANY REQUIRED ONLINE IDENTIFIER, AND BEFORE ANY USE OF A CHANGED OR NEW
39 REQUIRED ONLINE IDENTIFIER TO COMMUNICATE ON THE INTERNET. WITHIN THREE DAYS
40 AFTER RECEIPT OF THE INFORMATION, THE SHERIFF SHALL FORWARD THE INFORMATION
41 TO THE DEPARTMENT OF PUBLIC SAFETY. WITHIN THREE DAYS AFTER RECEIPT OF THE
42 INFORMATION FROM THE SHERIFF, THE DEPARTMENT OF PUBLIC SAFETY SHALL UPDATE
43 THE PERSON'S INFORMATION IN THE DEPARTMENT OF PUBLIC SAFETY DATABASE.

44 D. For the purposes of this section:

45 1. "Address" means the location at which the person receives mail.

1 2. "REQUIRED ONLINE IDENTIFIER" MEANS ANY ELECTRONIC EMAIL ADDRESS
2 INFORMATION OR INSTANT MESSAGE, CHAT, SOCIAL NETWORKING OR OTHER SIMILAR
3 INTERNET COMMUNICATION NAME, BUT DOES NOT INCLUDE SOCIAL SECURITY NUMBER,
4 DATE OF BIRTH, OR PIN NUMBER.

5 ~~2-~~ 3. "Residence" means the person's dwelling place, whether
6 permanent or temporary.

7 Sec. 3. Section 13-3827, Arizona Revised Statutes, is amended to read:
8 13-3827. Internet sex offender website; investigation of
9 records; immunity

10 A. The department of public safety shall establish and maintain an
11 internet sex offender ~~web-site~~ WEBSITE for offenders whose risk assessment
12 has been determined to be a level two or level three. The purpose of the
13 internet sex offender ~~web-site~~ WEBSITE is to provide sex offender information
14 to the public.

15 B. The internet sex offender ~~web-site~~ WEBSITE shall include the
16 following information for each convicted sex offender in this state who is
17 required to register pursuant to section 13-3821:

18 1. The offender's name, address and age.

19 2. A current photograph.

20 3. The offense committed and notification level pursuant to section
21 13-3826, subsection E, if a risk assessment has been completed pursuant to
22 section 13-3825.

23 C. The department of public safety shall annually update on the ~~web~~
24 ~~site~~ WEBSITE the name, address and photograph of each sex offender.

25 D. THE DEPARTMENT OF PUBLIC SAFETY SHALL MAINTAIN A SEPARATE DATABASE
26 AND SEARCH FUNCTION ON THE WEBSITE THAT CONTAINS ANY REQUIRED ONLINE
27 IDENTIFIER OF SEX OFFENDERS WHOSE RISK ASSESSMENTS HAVE BEEN DETERMINED TO BE
28 A LEVEL TWO OR LEVEL THREE AND THE NAME OF ANY WEBSITE OR INTERNET
29 COMMUNICATION SERVICE WHERE THE REQUIRED ONLINE IDENTIFIER IS BEING USED.
30 THIS INFORMATION SHALL NOT BE PUBLICLY CONNECTED TO THE NAME, ADDRESS AND
31 PHOTOGRAPH OF A REGISTERED SEX OFFENDER ON THE WEBSITE.

32 E. THE DEPARTMENT OF PUBLIC SAFETY MAY DISSEMINATE A REGISTERED SEX
33 OFFENDER'S REQUIRED ONLINE IDENTIFIER AND THE NAME OF ANY CORRESPONDING
34 WEBSITE OR INTERNET COMMUNICATION SERVICE TO A BUSINESS OR ORGANIZATION THAT
35 OFFERS ELECTRONIC COMMUNICATION SERVICES FOR COMPARISON WITH INFORMATION THAT
36 IS HELD BY THE REQUESTING BUSINESS OR ORGANIZATION. THE REQUESTING BUSINESS
37 OR ORGANIZATION SHALL NOTIFY THE DEPARTMENT OF PUBLIC SAFETY WHEN A
38 COMPARISON OF THE INFORMATION INDICATES THAT A REGISTERED SEX OFFENDER'S
39 REQUIRED ONLINE IDENTIFIER IS BEING USED ON THE BUSINESS'S OR ORGANIZATION'S
40 SYSTEM. THE REQUESTING BUSINESS OR ORGANIZATION SHALL NOT FURTHER
41 DISSEMINATE THAT THE PERSON IS A REGISTERED SEX OFFENDER.

42 ~~D-~~ F. The motor vehicle division of the department of transportation
43 shall send copies of each sex offender's nonoperating identification license
44 or driver license photograph to the department of public safety for inclusion
45 on the sex offender ~~web-site~~ WEBSITE.

1 ~~E.~~ G. The department of public safety shall annually verify the
2 addresses of all sex offender registration records contained within the
3 Arizona criminal justice information system. Before including the address of
4 a sex offender on the ~~web-site~~ WEBSITE, the department of public safety shall
5 confirm that the address is correct. To confirm a sex offender's address,
6 the department shall conduct a search of the Arizona criminal justice
7 information system. If this search does not provide the necessary
8 confirmation, the department shall use alternative public and private sector
9 resources that are currently used for criminal investigation purposes to
10 confirm the address. The department of public safety is prohibited from
11 using or releasing the information from the alternative public and private
12 sector resources except pursuant to this section. A custodian or public or
13 private sector resource that releases information pursuant to this subsection
14 is not civilly or criminally liable in any action alleging a violation of
15 confidentiality.

16 ~~F.~~ H. The department of public safety may petition the superior court
17 for enforcement of subsection ~~E~~ G of this section if a public or private
18 sector resource refuses to comply. The court shall grant enforcement if the
19 department has reasonable grounds to believe the records sought to be
20 inspected are relevant to confirming the identity and address of a sex
21 offender.

22 ~~G.~~ I. A person who provides or fails to provide information required
23 by this section is not civilly or criminally liable unless the act or
24 omission is wanton or wilful.

25 J. FOR THE PURPOSE OF THIS SECTION "REQUIRED ONLINE IDENTIFIER" MEANS
26 ANY ELECTRONIC EMAIL ADDRESS INFORMATION OR INSTANT MESSAGE, CHAT, SOCIAL
27 NETWORKING OR OTHER SIMILAR INTERNET COMMUNICATION NAME, BUT DOES NOT INCLUDE
28 SOCIAL SECURITY NUMBER, DATE OF BIRTH, OR PIN NUMBER.

29 Sec. 4. Effective date

30 Sections 13-3821, 13-3822, and 13-3827, Arizona Revised Statutes, as
31 amended by this act, are effective from and after December 31, 2007.

32 Sec. 5. Implementation

33 The department of public safety shall begin collection of online
34 identifier information no later than ninety days after this act has been
35 enacted. Penalties will not be imposed until January 1, 2008, but sex
36 offender registrants are encouraged to submit current online identity
37 information before this date.

APPROVED BY THE GOVERNOR APRIL 16, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2007.